

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Nov 18, 2020

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

WAYDE LYNN KURT,

Defendant.

Nos. 2:10-CR-0114-WFN-1
2:11-CR-0161-WFN-1

ORDER DENYING MOTIONS FOR
REDUCTION IN SENTENCE AND
COMMUNITY CORRECTIONS
FACILITY PLACEMENT

Pending before the Court are Defendant's Motions for Immediate Reduction in Sentence and Motion for Community Corrections Facility Placement. Defendant has exhausted his claim with the Bureau of Prisons [BOP]. See ECF No.75, Exhibit 2.

Mr. Kurt must demonstrate that "(i) extraordinary and compelling reasons warrant such a reduction; or (ii) the defendant is at least 70 years of age, has served at least 30 years in prison, pursuant to a sentence imposed under section 3559(c) . . . and a determination has been made by the Director of the Bureau of Prisons that the defendant is not a danger to the safety of any other person or the community, as provided under section 3142(g)." 18 U.S.C. § 3582(c)(1)(A). As Defendant is not over 70 years old, he must demonstrate that extraordinary and compelling reasons warrant reduction.

Defendant has not demonstrated extraordinary or compelling reasons warranting a sentence reduction. Defendant claims to have conditions that increase his risk of serious illness or death should he contract COVID-19, but the medical documentation indicates that he refused diagnostic testing that would have allowed medical personnel to make a diagnosis. Hence, there is no evidence that Mr. Kurt is at heightened risk. Mr. Kurt's underlying conviction was serious and suggestive that he may be a danger to the public. As a part of his involvement in the white supremacist movement he actively had planned to

1 harm people. At the time of sentencing Mr. Kurt's criminal history category was a VI, the
2 highest category available. Mr. Kurt has not demonstrated extraordinary or compelling
3 reasons supporting his release or conversion of his sentence to home confinement. The
4 Court has reviewed the file and Motion and is fully informed. Accordingly,

5 **IT IS ORDERED** that:

6 1. Defendant's Motion for Immediate Reduction in Sentence, filed on July 27, 2020,
7 **2:10-CR-0114-WFN-1 ECF No. 230** and **2:11-CR-0161-WFN-1 ECF No. 73**, is
8 **DENIED**.

9 2. Defendant's Motion for Community Corrections Facility Placement, filed on
10 October 13, 2020, **2:10-CR-0114-WFN-1 ECF No. 232** and **2:11-CR-0161-WFN-1 ECF**
11 **No. 75**, is **DENIED**.

12 The District Court Executive is directed to file this Order and provide copies to
13 counsel.

14 **DATED** this 18th day of November, 2020.

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16 WM. FREMMING NIELSEN
17 SENIOR UNITED STATES DISTRICT JUDGE

11-13-20

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